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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/817,329

04/02/2004

Gary M. Saxton

SNX-0039

1143

49679

7590

03/19/2007

THELEN REID BROWN RAYSMAN & STEINER LLP

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EXAMINER

NGUYEN, TUAN DUC

ART UNIT

PAPER NUMBER

2614

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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31 DAYS

03/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/817,329	<b>Applicant(s)</b> SAXTON ET AL.	
	<b>Examiner</b> Tuan D. Nguyen	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-70 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. This application contains claims directed to the following patentably distinct species: The species are:  
  
Species 1: Figures 1-3 are drawn to an embodiment of the self-expanding in the canal hearing device.  
  
Species 2: Figures 4 and 5 are drawn to another embodiment of the self-expanding in the canal hearing device including a sealing fin.  
  
Species 3: Figures 6 and 7 are drawn to another embodiment of the self-expanding in the canal hearing device including an expandable basket.  
  
Species 4: Figures 8 and 9 are drawn to another embodiment of the self-expanding in the canal hearing device including an a plurality of straight supports.  
  
Species 5: Figure 10 is drawn to another embodiment of the self-expanding in the canal hearing device including a sliding distal connector.  
  
Species 6: Figure 11 is drawn to another embodiment of the self-expanding in the canal hearing device including a stationary housing.  
  
Species 7: Figures 12 and 13 are drawn to another embodiment of the self-expanding in the canal hearing device including asymmetric construction.

Species 8: Figure 15 is drawn to another embodiment of the self-expanding in the canal hearing device including a braided scaffold design.

Species 9: Figure 16 is drawn to another embodiment of the self-expanding in the canal hearing device including a linked cell structure.

Species 10: Figure 17 is drawn to another embodiment of the self-expanding in the canal hearing device including interconnected links.

Species 11: Figure 18 is drawn to another embodiment of the self-expanding in the canal hearing device including a stepped end section.

Species 12: Figure 19 is drawn to another embodiment of the self-expanding in the canal hearing device including an expanded middle section.

Species 13: Figure 20 is drawn to another embodiment of the self-expanding in the canal hearing device including a barbell section.

Species 14: Figure 21 is drawn to another embodiment of the self-expanding in the canal hearing device including a cone section.

Species 15: Figure 22 is drawn to another embodiment of the self-expanding in the canal hearing device including a sliding sheath with a foam-filled expanding member.

Species 16: Figure 23 is drawn to another embodiment of the self-expanding in the canal hearing device including a sliding sheath with an elastic expanding member.

Species 17: Figure 24 is drawn to another embodiment of the self-expanding in the canal hearing device including a sliding sheath with a spring.

Species 18: Figures 25 and 26 are drawn to another embodiment of the self-expanding in the canal hearing device including prongs on both end of the device.

Species 19: Figures 27-29 are drawn to another embodiment of the self-expanding in the canal hearing device including a single-sided flaring prong.

Species 20: Figure 30 is drawn to another embodiment of the self-expanding in the canal hearing device including expanding spars on the proximal and distal ends of the body.

Species 21: Figure 31 is drawn to another embodiment of the self-expanding in the canal hearing device including a mechanical pivot joint with a ball and socket joint.

Species 22: Figure 32 is drawn to another embodiment of the self-expanding in the canal hearing device including an expandable seal.

Species 23: Figure 33 is drawn to another embodiment of the self-expanding in the canal hearing device including a single-sided seal.

Species 24: Figure 34 is drawn to another embodiment of the self-expanding in the canal hearing device including two smaller expandable seals.

Species 25: Figure 35 is drawn to another embodiment of the self-expanding in the canal hearing device including a spiral wound expansion member.

Species 26: Figure 36 is drawn to another embodiment of the self-expanding in the canal hearing device including upper and lower hard outer shells.

Species 27: Figure 37 is drawn to another embodiment of the self-expanding in the canal hearing device including "S" design coils.

Species 28: Figure 38 is drawn to another embodiment of the self-expanding in the canal hearing device including a flexible mushroom-shaped membrane,

Species 29: Figure 39 is drawn to a self-sizing hearing device.

Species 30: Figure 40 is drawn to another embodiment of the self-expanding in the canal hearing device including a sliding sheath with elastic/foam-filled expanding member.

Species 31: Figures 40-42 are drawn to another embodiment of the self-expanding in the canal hearing device in an uncompressed, deployed position

Species 32: Figure 43 is drawn to another embodiment of the self-expanding in the canal hearing device in a compressed, undeployed position.

Species 33: Figure 44 is drawn to another embodiment of the self-expanding in the canal hearing device with no membrane covers the supports.

Species 34: Figure 45 is drawn to another embodiment of the self-expanding in the canal hearing device with a membrane covers only the proximal portion of the device.

Species 35: Figures 46-47 are drawn to another embodiment of the self-expanding in the canal hearing device including a proximal support structure and distal support structure.

Species 36: Figures 48-49 are drawn to a method of installing in a patient's ear canal.

Species 37: Figure 50 is drawn to another method of installing in a patient's ear canal.

Species 38: Figure 51 is drawn to another method of installing in a patient's ear canal.

Species 39: Figures 52-53 are drawn to another method of installing in a patient's ear canal.

Species 40: Figures 54-55 are drawn to another method of installing in a patient's ear canal.

Species 41: Figures 56-57 are drawn to another method of installing in a patient's ear canal.

2. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic
3. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.
4. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan D. Nguyen whose telephone number is (571) 272-8163. The examiner can normally be reached on M-F 6:30-3:00.  
  
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499.

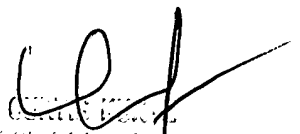


Art Unit: 2614

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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COMMUNICATIONS SECTION  
10/13/07 10:00 AM